

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Alex Tuminello	Team: Squad #15	CCRB Case #: 201603780	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 04/27/2016 4:45 PM	Location of Incident: [REDACTED]	Precinct: 43	18 Mo. SOL 10/27/2017	EO SOL 10/27/2017	
Date/Time CV Reported Sat, 04/30/2016 10:23 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sat, 04/30/2016 10:23 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Juan Gomez	27475	953916	052 PCT
2. POM Adam Landesberg	15894	949195	052 PCT
3. POM Brian Farrelly	28737	928274	052 PCT
4. POM Neftali Medina	08604	939010	052 PCT
5. An officer			052 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Charles Cavallaro	4758	938197	052 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Juan Gomez	Force: At § 87(2)(b) [REDACTED] in the Bronx, Police Officer Juan Gomez used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
B.POM Adam Landesberg	Force: At § 87(2)(b) [REDACTED] in the Bronx, Police Officer Adam Landesberg used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
C.POM Neftali Medina	Force: At § 87(2)(b) [REDACTED] in the Bronx, PO Neftali Medina used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
D.POM Adam Landesberg	Force: At § 87(2)(b) [REDACTED] in the Bronx, Police Officer Adam Landesberg used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
E. An officer	Force: At § 87(2)(b) [REDACTED] in the Bronx, an officer used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
F.POM Brian Farrelly	Discourtesy: While en route to the 52nd Precinct stationhouse in the Bronx, Police Officer Brian Farrelly spoke discourteously to § 87(2)(b) [REDACTED]	[REDACTED]
G.POM Neftali Medina	Discourtesy: While en route to the 52nd Precinct stationhouse in the Bronx, Police Officer Neftali Medina spoke discourteously to § 87(2)(b) [REDACTED]	[REDACTED]

Officer(s)	Allegation	Investigator Recommendation
H.POM Brian Farrelly	Discourtesy: At the 52nd Precinct stationhouse in the Bronx, Police Officer Brian Farrelly spoke discourteously to § 87(2)(b)	

Case Summary

On April 27, 2016, at approximately 4:45 p.m., § 87(2)(b) and § 87(2)(b) were both standing in front of § 87(2)(b) in the Bronx. As § 87(2)(b) allegedly walked to a friend's house, he observed two officers identified by the investigation as PO Juan Gomez and PO Adam Landesberg of the 52nd Precinct were walking behind him. As the officers got closer, § 87(2)(b) began to speed walk and jog. § 87(2)(b) alleged that he was grabbed from behind by his arms and chest, lifted him up and allegedly slammed him to the ground by PO Gomez and PO Landesberg (**Allegations A and B**).

§ 87(2)(b) stated that he was arrested at the location and escorted to a police van. He alleged that once next to the police van that would transport him to the 52nd Precinct stationhouse for processing, PO Neftali Medina of the 52nd Precinct and PO Landesberg pushed him inside of the van by his shoulders and arms which caused his back and neck to make contact with the floor of the van (**Allegations C and D**). § 87(2)(b) also alleged that an officer he could not identify allegedly stepped on his leg (**Allegation E**).

While en route to the stationhouse, § 87(2)(b) alleged that the driver of the van identified as PO Brian Farrelly of the 52nd Precinct allegedly called him an asshole, scumbag and a predator (**Allegation F**). § 87(2)(b) also alleged that PO Medina told him to, "Shut the fuck up" and stated, "If the officers beat him up, they would have kicked his ass" (**Allegation G**).

§ 87(2)(b) alleged that upon arriving at the 52nd Precinct stationhouse, PO Farrelly allegedly referred to him as a predator and an animal (**Allegation H**).

§ 87(2)(b) was charged with § 87(2)(b)

§ 87(2)(b) was issued a summons for § 87(2)(b) and released from the stationhouse.

Video footage was acquired from § 87(2)(b), located at § 87(2)(b) in the Bronx. The footage does not indicate any relevant video relevant to this case.

Mediation, Civil and Criminal Histories

- Mediation was unsuitable in regards to this case because the arrests of § 87(2)(b) and § 87(2)(b) during the course of this incident.
- As of May 19, 2016, § 87(2)(b) and § 87(2)(b) have not filed a notice of claim with the Office of the New York City Comptroller (Encl. Board Review 04).
- § 87(2)(b) (Encl. Board Review 03).
- Without a valid NYSID number, the undersigned investigator was unable to look-up § 87(2)(b) in the New York State Office of Court Administration database. On August 17, 2016, the undersigned investigator attempted to contact the Bronx Criminal Court via in

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regards to § 87(2)(b) summons from the date of the incident. None of the operators were available to field the undersigned investigator's question and a voicemail could not be left.

Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by § 87(2)(b) and § 87(2)(b) (Encl. Board Review 02).
- PO Gomez has been a member of the service for three years and has been the subject of 9 previous CCRB allegations involving four cases. § 87(2)(g) four previous force allegations were pled against PO Gomez in CCRB case numbers 20140430, 201412466, 201502304 and 201505530. None of these allegations were substantiated.
- PO Landesberg has been a member of the service for six years and has been the subject of three previous CCRB allegations involving three cases. § 87(2)(g) in CCRB case number 201212935, a physical force allegation was pled against PO Landesberg and the allegations was closed as complainant uncooperative.
- PO Medina has been a member of the service for 11 years and has been the subject of seven previous CCRB allegations involving four cases. § 87(2)(g) physical force allegations were pled against PO Medina in CCRB case numbers 200812872, 201109042 and 201302830. None of these allegations were substantiated. Additionally, in CCRB case number 201302830, a discourtesy allegation was pled against PO Medina and the allegation was closed as unsubstantiated.
- PO Farrelly has been a member of the service for 15 years and has been the subject of 25 previous CCRB allegations involving 10 cases. § 87(2)(g) in CCRB case numbers 200207878 and 200506329, discourtesy allegations were pled against PO Farrelly and none of these allegations were substantiated. In CCRB case number 201213052, PO Farrelly was substantiated in regards to a search of a person and a stop. In regards to the allegations, the Board recommended command discipline while the NYPD imposed no discipline.

Findings and Recommendations

Identification of Subject Officers

§ 87(2)(b) alleged that upon being placed in the police van, one of the officers that he did not recall allegedly jumped on his leg. § 87(2)(b) then recanted his statement and alleged that the officer stepped on his leg. § 87(2)(b) also alleged in his CCRB phone statement that one of the officers, "banged" on his leg and sat on him. All of the officers interviewed in regards to the investigation stated that at no point did any of the officers step or jump on § 87(2)(b) leg. Without any further identifying information, the investigation could not determine the identity of the officer that allegedly jumped or stepped on § 87(2)(b) leg. As a result, **Allegation E** is being pled against "An officer" from the 52nd Precinct.

Allegation A: Force- At § 87(2)(b) in the Bronx, Police Officer Juan Gomez used physical force against § 87(2)(b)

Allegation B: Force- At § 87(2)(b) in the Bronx, Police Officer Adam Landesberg used physical force against § 87(2)(b)

§ 87(2)(b) stated that as he walked up § 87(2)(b) and towards his friend's house, he walked for approximately five seconds and heard steps. He stated that as he turned around, he saw PO Gomez and PO Landesberg approximately five feet behind him and walking his way. He recognized them to be police officers because of the bulletproof vests they had on. § 87(2)(b) stated that as the officers approached, he began to speed walk and eventually jog. § 87(2)(b) alleged that he was grabbed from behind by his arms and chest and lifted up. § 87(2)(b) alleged that he was then slammed on the ground and the left hand side of his body hit the sidewalk.

§ 87(2)(b) stated that he began to record the incident with his Samsung Galaxy S5 cell phone and stated that he observed the officers chase the § 87(2)(b) approximately 20 to 25 yards and commanded him to, "Get down." § 87(2)(b) observed an officer hit § 87(2)(b) in the mid back, neck and the back of the head but did not specifically describe the force used despite being asked to by the undersigned investigator. § 87(2)(b) also initially stated that the male was hit approximately 10 times and then recanted the amount of times the male was hit. § 87(2)(b) stated that the officers tackled the male to the ground and both placed their knees into the males back. § 87(2)(b) then changed his statement and explained that the officers put their whole body on top of the male.

§ 87(2)(b) witnessed this incident and lives on § 87(2)(b) § 87(2)(b) stated that she got out of her car and observed the unidentified male identified as § 87(2)(b) ran a full house length before the officers caught up to him. She did not observe the force that the officers used against § 87(2)(b) and stated that she just saw the officers on the ground with § 87(2)(b) as he laid on his chest.

PO Gomez and PO Landesberg both stated that they were members of an apprehension team in car being driven by Sgt. Charles Cavallaro of the 52nd Precinct. Officers Gomez and Landesberg stated that they received information in regards to a male selling heroin from the wheel well of a car located on § 87(2)(b). A description of the male was provided by PO Farrelly and Sgt. Cavallaro drove the vehicle halfway up the block and PO Gomez and PO Landesberg exited the vehicle. PO Gomez led the chase of § 87(2)(b) and both PO Gomez and PO Landesberg commanded § 87(2)(b) to stop running. PO Gomez was the first officer to catch up to § 87(2)(b) and he tackled him to the ground which caused § 87(2)(b)'s chest and shoulder to make contact with the ground. § 87(2)(b) was then handcuffed by PO Gomez.

Sgt. Cavallaro stated that while at the location he was primarily dealing with § 87(2)(b) because he dropped a bag of marijuana on the ground. Sgt. Cavallaro stated that officers that he did not recall ran after § 87(2)(b) and tackled him to the ground to place him in handcuffs.

PO Medina stated that PO Gomez and PO Landesberg chased § 87(2)(b) half-way up the block and brought him to the ground by grabbing the back of his shirt which caused his chest to make contact with the ground.

PO Farrelly stated that he did not observe how § 87(2)(b) was taken to the ground.

According to NYPD Patrol Guide Procedure 221-01 (Encl. Board Review 01), force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In all circumstances, any application or use of force must be reasonable under the circumstances. If the force used is unreasonable under the circumstances, it will be deemed excessive and in violation of department policy. A police officer or a peace officer, in the course of effecting or attempting to effect an arrest, or of preventing or attempting to prevent the escape from custody, of a person whom he or she reasonably believes to have committed an offense, may use physical force when and to the extent he or she reasonably believes such to be necessary to effect the arrest, or to prevent the escape from custody, or in self-defense or to defend a third person. New York State Penal Law 35.30 (Encl. Board Review 05).

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Allegation C: Force- At § 87(2)(b) in the Bronx, Police Officer Neftali Medina used physical force against § 87(2)(b)

Allegation D: Force- At § 87(2)(b) in the Bronx, Police Officer Adam Landesberg used physical force against § 87(2)(b)

§ 87(2)(b) stated that upon being placed under arrest, Sgt. Cavallaro handed him off to three officers identified by the investigation as PO Farrelly, PO Medina and PO Landesberg. § 87(2)(b) stated that he was escorted to a police van by the officers and they allegedly attempted to place a handkerchief in his pocket. § 87(2)(b) alleged that PO Medina and PO Landesberg allegedly pushed him by his shoulders and arms into the van. This allegedly caused his back and neck to make contact with the floor of the van.

PO Medina stated that while at the police van with § 87(2)(b) he attempted to give his property to civilians on the street. The officers explained to § 87(2)(b) that they could not allow him to give out his property. It took the officers approximately two to three minutes to place § 87(2)(b) in the van because the officers had to talk to him in regards to getting in the van. PO Medina stated that force did not have to be used against § 87(2)(b) at any point in regards to placing him in the van.

PO Landesberg stated that he was present with PO Medina and PO Farrelly as the officers placed § 87(2)(b) inside of the police van. § 87(2)(b) was allegedly pulling away from the officers as they walked him to the van. § 87(2)(b) was pulled by his arms towards the vehicle and at no point did any of the officers push him into the van.

PO Farrelly identified himself as being a part of the officers that escorted § 87(2)(b) back to the police van. § 87(2)(b) refused to get into the van and his body went limp. PO Farrelly was on the left hand side of § 87(2)(b) and the officers pushed him into the van by his arms and waist. The side of § 87(2)(b) body made contact with the back bench of the van and his neck and back did not make contact with the floor of the van. PO Farrelly also stated that none of the officers jumped on § 87(2)(b) leg.

Sgt. Cavallaro stated that force had to be used to place § 87(2)(b) in the police van, however, he was unsure of the specific force that was used and which officers escorted him back to the vehicle.

PO Gomez did not recall observing the officers placing § 87(2)(b) in the police van.

§ 87(2)(b) stated that it took the officers approximately 30 seconds to place him in the van and his head was pushed into the vehicle. She did not observe any other physical force being used.

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Allegation E: Force- At § 87(2)(b) in the Bronx, an officer used physical force against § 87(2)(b)

As previously noted, § 87(2)(b) alleged that PO Medina and PO Landesberg allegedly pushed him by his shoulders and arms into the van. This allegedly caused his back and neck to make contact with the bottom of the van. Upon making contact with the bottom of the van, § 87(2)(b) initially alleged that an officer jumped on his leg. He then recanted his statement and alleged that an officer stepped on his leg as they walked to the back of the van.

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]

Allegation F: Discourtesy- While en route to the 52nd Precinct stationhouse in the Bronx, Police Officer Brian Farrelly spoke discourteously to § 87(2)(b)

Allegation G: Discourtesy- While en route to the 52nd Precinct stationhouse in the Bronx, Police Officer Neftali Medina spoke discourteously to § 87(2)(b)

Allegation H: Discourtesy- At the 52nd Precinct stationhouse in the Bronx, Police Officer Brian Farrelly spoke discourteously to § 87(2)(b)

While en route to the stationhouse, § 87(2)(b) alleged that PO Farrelly called him an asshole, scumbag, animal and a predator. He also alleged that PO Farrelly told him to, “Shut the fuck up” and called him a, “Piece of shit heroin dealer” and stated that the officers had him on film directing heroin sales. § 87(2)(b) also alleged that while en route to the stationhouse, PO Medina told him to, “Shut the fuck up” and stated, “If the officers would of beat him up, they

would of kicked his ass.” § 87(2)(b) alleged that upon arriving at the stationhouse, PO Farrelly allegedly referred to him again as a predator and an animal.

PO Farrelly stated while en route to the stationhouse, § 87(2)(b) ranted and asked the officers if they were going to beat him up. PO Farrelly also stated that § 87(2)(b) called him a racist and he told him to shut-up. The transport back to the stationhouse took approximately 15 to 20 minutes and PO Landesberg processed § 87(2)(b)

PO Medina stated while en route to the stationhouse, § 87(2)(b) thought that the officers were driving him somewhere to beat him up but the officers explained that he was just going back to the stationhouse.

PO Farrelly, PO Medina and PO Landesberg all stated that at no point on the date of the incident, did any officers direct any discourteous language at § 87(2)(b)

§ 87(2)(g)

Squad: 15

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date